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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**Stanley David Vuicich
4521 Old Stage Road
Pulaski, VA 24301**

**Additional Address:
404 Elm Avenue, SW
Roanoke, VA 24016-3920**

Registered Nurse License No. 623205

Respondent.

Case No. 2013-764

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Board of Registered Nursing of the Department of Consumer Affairs (Board), and which is hereby served on you.

A written request for a hearing signed by you must be received to the Board no later than March 29, 2013, which is within 15 days of when the Accusation was served on you or mailed to you. Otherwise, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by faxing, delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by faxing or mailing a Notice of Defense as provided in section 11506 of the Government Code, to

**Brent Farrand
Discipline Legal Support Analyst
Board of Registered Nursing
P.O. Box 944210
Sacramento, CA 94244-2100
Fax No. (916) 574-7609**

You may, but need not, be represented by counsel at any or all stages of these proceedings.

1 The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a
2 specific denial of all parts of the Accusation, but you will not be permitted to raise any objection
3 to the form of the Accusation unless you file a further Notice of Defense as provided in section
4 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

5 If you file any Notice of Defense within the time permitted, a hearing will be held on the
6 charges made in the Accusation.

7 The hearing may be postponed for good cause. If you have good cause, you are obliged to
8 notify the Office of Administrative Hearings - Los Angeles 320 West Fourth Street, Suite 630,
9 Los Angeles, CA 90013-2350, within ten (10) working days after you discover the good cause.
10 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a
11 postponement.

12 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

13 If you desire the names and addresses of witnesses or an opportunity to inspect and copy
14 the items mentioned in section 11507.6 of the Government Code in the possession, custody or
15 control of the Board you may send a Request for Discovery to the designated Deputy Attorney
16 General at the address below:

17 Sydney M. Mehringer
18 Deputy Attorney General
19 California Department of Justice
20 300 South Spring Street, Suite 1702
21 Los Angeles, CA 90013-0000
22 (213) 897.2537

23 **NOTICE REGARDING STIPULATED SETTLEMENTS**

24 It may be possible to avoid the time, expense and uncertainties involved in an
25 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
26 settlement is a binding written agreement between you and the government regarding the matters
27 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
28 Board of Registered Nursing but once approved; it would be incorporated into a final order.

Any stipulation must be consistent with the Board's established disciplinary guidelines;
however, all matters in mitigation or aggravation will be considered. A copy of the Board's

1 Disciplinary Guidelines will be provided to you on your written request to the state agency
2 bringing this action.

3 If you are interested in pursuing this alternative to a formal administrative hearing, or if you
4 have any questions, you or your attorney should contact Deputy Attorney General, Sydney M.
5 Mehringer at the earliest opportunity.

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1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 SYDNEY M. MEHRINGER
Deputy Attorney General
4 State Bar No. 245282
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2537
6 Facsimile: (213) 897-2804
E-mail: Sydney.Mehringer@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-764

13 **STANLEY DAVID VUICICH**
Address of Record:
14 **4521 Old Stage Road**
Pulaski, VA 24301

A C C U S A T I O N

15 **Additional Address:**
404 Elm Avenue, SW
Roanoke, VA 24016-3920

16 **Registered Nurse License No. 623205**

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about August 1, 2003, the Board of Registered Nursing ("Board") issued
25 Registered Nurse License Number 623205 to Stanley David Vuicich ("Respondent"). The
26 Registered Nurse License expired on January 31, 2005, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Section 2811, subdivision (b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Title 16, Section 1419.3 of the California Code of Regulations defines the period in which a license may be renewed or reinstated:

"In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

(a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.

(b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

STATUTES

8. Section 2761 of the Code states, in pertinent part:

1 "The board may take disciplinary action against a certified or licensed nurse or deny an
2 application for a certificate or license for any of the following:

3 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

4

5 "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
6 against a health care professional license or certificate by another state or territory of the United
7 States, by any other government agency, or by another California health care professional
8 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
9 action."

10 9. Section 2762 of the Code states in pertinent part:

11 "In addition to other acts constituting unprofessional conduct within the meaning of this
12 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
13 chapter to do any of the following:

14 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
15 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
16 administer to another, any controlled substance as defined in Division 10 (commencing with
17 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
18 defined in Section 4022.

19 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
20 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
21 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
22 himself or herself, any other person, or the public or to the extent that such use impairs his or her
23 ability to conduct with safety to the public the practice authorized by his or her license."

24 **CONTROLLED SUBSTANCES**

25 10. Cocaine is a Schedule II controlled substance pursuant to Health and Safety Code
26 section 11055(b)(6) and a dangerous drug pursuant to Business and Professions Code section
27 4022.

1 11. Fentanyl is a Schedule II controlled substance pursuant to Health and Safety Code
2 section 11055(c)(8) and a dangerous drug pursuant to Business and Professions Code section
3 4022

4 12. Demerol, a brand name for "meperidine" is a Schedule II controlled substance
5 pursuant to Health and Safety Code section 11055(c)(17) and a dangerous drug pursuant to
6 Business and Professions Code section 4022.

7 13. Benzodiazepine is a general name for any group of psychotropic agents used as anti-
8 anxiety agents, muscle relaxants, sedatives, and hypnotics and is a dangerous drug pursuant to
9 Business and Professions Code section 4022.

10 **COST RECOVERY**

11 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
16 included in a stipulated settlement.

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Discipline by the South Carolina Board of Nursing)

19 15. Respondent is subject to disciplinary action under Code section 2761, subdivision
20 (a)(4) on the grounds of unprofessional conduct in that Respondent's registered nurse license was
21 disciplined by the South Carolina Department of Labor, Licensing and Regulation, State Board of
22 Nursing ("South Carolina Board"), as follows:

23 16. On or about April 30, 2007, in a case entitled *In the Matter of Stanley David Vuicich,*
24 *RN, License # 94764*, case numbers OIE # 2006-159, OGC 07-0113, the South Carolina Board
25 issued an Order of Temporary Suspension of Privilege to Practice Nursing in South Carolina
26 ("Temporary Order") which temporarily suspended Respondent's privilege to practice nursing in
27 South Carolina. The facts underlying the Temporary Order were that on or about March 16,
28 2006, while employed as a registered nurse at the Medical University of South Carolina in

1 Charleston, South Carolina, Respondent tested positive for Cocaine during an employer requested
2 urine drug screen.

3 17. On or about March 27, 2009, in a case entitled *In the Matter of Stanley David*
4 *Vuicich, RN, License # 94764*, case numbers OIE # 2006-159, OGC 07-0113, the South Carolina
5 Board adopted a Voluntary Surrender of Privilege to Practice Nursing ("Voluntary Surrender") in
6 which Respondent voluntarily surrendered his right to practice nursing in South Carolina. The
7 facts underlying the Voluntary Surrender, to which Respondent admitted, were as follows:

8 (a) On or about March 16, 2006, while employed as a registered nurse at the
9 Medical University of South Carolina in Charleston, South Carolina, Respondent tested positive
10 for Cocaine during an employer requested urine drug screen.

11 (b) Respondent pleaded guilty to criminal charges in Pennsylvania relating to
12 prescription drug abuse.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Discipline by the Pennsylvania Board of Nursing)

15 18. Respondent is subject to disciplinary action under Code section 2761, subdivision
16 (a)(4) on the grounds of unprofessional conduct in that Respondent's registered nurse license was
17 disciplined by the Pennsylvania State Board of Nursing ("Pennsylvania Board"), as follows:

18 19. On or about March 14, 2008, in a case entitled *Commonwealth of Pennsylvania*
19 *Bureau of Professional and Occupational Affairs v. Stanley David Vuicich, RN Respondent*,
20 Docket No. 2506-51-07, File No. 07-51-13367, the Pennsylvania Board issued a Consent
21 Agreement and Order ("Order") that indefinitely suspended Respondent's registered nurse license
22 for no less than 6 years retroactive to December 13, 2007. Pursuant to the terms of the Order,
23 Respondent was allowed to petition for a stay of the suspension in favor of probation in no less
24 than three years. The facts underlying the Order, to which Respondent admitted, were as follows:

25 (a) On or about April 30, 2007, the South Carolina Board filed an Order of
26 Temporary Suspension against Respondent, which was based on Respondent on having tested
27 positive for cocaine while on the job at the Medical University of South Carolina in Charleston,
28 South Carolina.

1 (b) On or about July 25, 2007, the Virginia Department of Health Professions
2 issued an Order suspending Respondent's license to practice nursing in Virginia which was based
3 on the South Carolina Board's Order of Temporary Suspension.

4 (c) From at least October through November 2007, Respondent was employed in
5 the cardiac care unit at Geisinger Medical Center in Danville, Pennsylvania. After a random audit
6 of Respondent's narcotics transactions, Geisinger Medical Center terminated Respondent for
7 diverting narcotics. Specifically, from October 1, 2007 through November 18, 2007, Respondent
8 withdrew 329 narcotics that were unaccounted for. Of the 329 narcotics, 320 Pyxis withdrawals
9 were for 2 millimeters ampoules of Fentanyl.

10 (d) On or about December 18, 2007, Respondent was arrested for 72 counts of theft
11 regarding the missing narcotics.

12 (e) On or about December 13, 2007, the Pennsylvania Board temporarily
13 suspended Respondent's license to practice nursing in Pennsylvania pending a preliminary
14 hearing. On or about January 7, 2008, Respondent waived his preliminary hearing and his license
15 was suspended for six months under the Board's Preliminary Order of Temporary Suspension.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Discipline by the Virginia Board of Nursing)

18 20. Respondent is subject to disciplinary action under Code section 2761, subdivision
19 (a)(4) on the grounds of unprofessional conduct in that Respondent's registered nurse license was
20 disciplined by the Virginia Department of Health Professions ("Virginia Board"), as follows:

21 21. On or about July 25, 2007, in a case entitled *In Re: Stanley David Vuicich, R.N.*
22 *License No.: 0001-180119*, the Virginia Board issued an Order which suspended Respondent's
23 license to practice nursing in Virginia. The grounds for the Order were that the state of South
24 Carolina had issued an Order of Temporary Suspension against Respondent dated April 30, 2007.

25 22. On or about December 9, 2010, in a case entitled *In Re: Stanley David Vuicich, R.N.*
26 *Reinstatement Applicant*, the Virginia Board issued an Order regarding Respondent's application
27 for reinstatement which reinstated Respondent's license to practice nursing in Virginia. The
28 Virginia Board further ordered that Respondent's license was indefinitely suspended but that the

1 suspension was stayed upon the condition that Respondent remained in compliance with the terms
2 of a recovery monitoring contract. The grounds for the Order were as follows:

3 (a) On or about April 30, 2007, the South Carolina Board temporarily suspended
4 Respondent's license to practice nursing as result of testing positive for Cocaine while on the job
5 at the Medical University of South Carolina in Charleston, South Carolina. On or about March
6 27, 2009 the South Carolina Board accepted Respondent's voluntary surrender of his privilege to
7 practice professional nursing.

8 (b) On or about August 28, 2007, the North Carolina Board of Nursing revoked
9 Respondent's privilege to practice professional nursing. The North Carolina Board's action was
10 the result of receiving notification that on July 25, 2007, the Virginia Board issued an Order that
11 suspended Respondent's license to practice professional nursing.

12 (c) On December 13, 2007, the Pennsylvania Board temporarily suspended
13 Respondent's license to practice professional nursing based on Respondent's diversion of
14 narcotics, including hundreds of ampoules of Fentanyl between October 1, 2007 and October 18,
15 2007 while he was employed at Geisinger Medical Center in Danville, Pennsylvania, and the
16 actions of the South Carolina Board and the Virginia Board.

17 (d) On or about October 28, 2008, the Maryland Board of Nursing revoked
18 Respondent's license to practice professional nursing based on Respondent's falsification of
19 records, exhibiting unprofessional conduct, disciplinary actions taken by federal, state, or local
20 licensing authorities, and his inability to practice safely due to substance abuse.

21 (e) On or about February 11, 2008, Respondent was convicted in Pennsylvania of
22 one felony count of acquiring or obtaining a controlled substance by misrepresentation.

23 (f) Respondent admitted to using cocaine since approximately 1993 and to using
24 opiates since 2005. On or about August 27, 2007, Respondent's pre-employment drug test for
25 Nightingale Nurses in Boca Raton, Florida was positive for benzodiazepine, for which he did not
26 have a valid prescription.

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1 (g) Respondent admitted that on August 1, 2007, while employed at Wytheville
2 Community Hospital in Wytheville, Virginia, Respondent diverted and self-injected 50 mg of
3 Demerol.

4 (h) On August 27, 2007, Respondent applied for a position with Nightingale
5 Nurses without disclosing that his South Carolina and Virginia licenses were suspended.

6 (i) In August 2010, Respondent entered the Health Practitioners' Monitoring
7 Program ("HPMP") and signed a recovery monitoring contract. However Respondent was not
8 fully in compliance with the terms of the recovery monitoring contract and according to his
9 HPMP case manager, the program did not recommend that Respondent return to practice.

10 23. On or about May 18, 2011, in a case entitled *In Re: Stanley D. Vuicich, R. N.*, the
11 Virginia Board issued an Order that Respondent's registered nurse license should continue on
12 indefinite suspension and that Respondent's license should be recorded as suspended and no
13 longer current. The facts underlying the Order, to which Respondent admitted, were as follows:

14 (a) On or about December 9, 2010, the Virginia Board reinstated Respondent's
15 license and placed it on indefinite suspension. However the suspension was stayed contingent
16 upon Respondent remaining in compliance with his recovery monitoring contract with HPMP.
17 The stay of indefinite suspension was summarily rescinded on March 3, 2011 pursuant to notice
18 of Respondent's dismissal from HPMP on February 18, 2011. The dismissal was due to
19 Respondent's failure to comply with the urine toxicology screening program and his failure to
20 complete a hair test for a drug screen.

21 (b) When interviewed by an investigator for the Virginia Board on April 1, 2011,
22 Respondent admitted that he relapsed in December 2010 and February 2011 and had used beer
23 and Cocaine for short periods. Respondent stated that he was unable to return to the practice of
24 nursing until he made and kept some kind of commitment for further treatment.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Possession of Controlled Substances)

3 24. Respondent is subject to disciplinary action under Code section 2762, subdivision (a)
4 in that Respondent obtained or possessed in violation of law controlled substances, to wit,
5 Fenantyl and Demerol. The facts and circumstances are as follows:

6 25. On or about August 1, 2007, while employed at Wytheville Community Hospital in
7 Wytheville, Virginia, Respondent diverted 50 mg of Demerol.

8 26. From October 1, 2007 through November 18, 2007, Respondent diverted 320 2
9 millimeters ampoules of Fentanyl while he was employed at Geisinger Medical Center in
10 Danville, Pennsylvania.

11 27. Since approximately 1993, Respondent possessed cocaine on multiple occasions,
12 including, but not limited to, March 2006, December 2010, and February 2011.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 (Use of Controlled Substances)

15 28. Respondent is subject to disciplinary action under Code section 2762, subdivision (b)
16 in that Respondent used controlled substances, to wit, Cocaine, Demerol, and benzodiazepine to
17 an extent or in a manner dangerous or injurious to himself or the public or to the extent that such
18 use impairs his ability to conduct with safety to the public the practice authorized by his license.
19 The circumstances are as follows:

20 29. On or about March 16, 2006, while employed as a registered nurse at the Medical
21 Center of South Carolina in Charleston, South Carolina, Respondent tested positive for Cocaine
22 during an employer requested urine drug screen.

23 30. On or about August 1, 2007, while employed at Wytheville Community Hospital in
24 Wytheville, Virginia, Respondent self-injected 50 mg of Demerol.

25 31. On or about August 27, 2007, Respondent's pre-employment drug test for
26 Nightingale Nurses in Boca Raton, Florida was positive for benzodiazepine, for which he did not
27 have a valid prescription.

32. Respondent admitted to using Cocaine since approximately 1993 and to using opiates since 2005.

33. When interviewed by an investigator for the Virginia Board on April 1, 2011, Respondent admitted that he had used Cocaine in December 2010 and February 2011.

PRAYER

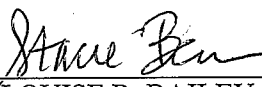
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 623205, issued to Stanley David Vuicich;

2. Ordering Stanley David Vuicich to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 14, 2013


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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**BEFORE THE
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Pulaski, VA 24301**

**Additional Address:
404 Elm Avenue, SW
Roanoke, VA 24016-3920**

Registered Nurse License No. 623205

Respondent.

Case No. 2013-764

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

TO RESPONDENT:

Under section 11507.6 of the Government Code of the State of California, parties to an administrative hearing, including the Complainant, are entitled to certain information concerning the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code concerning such rights is included among the papers served.

**PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE
HEREBY REQUESTED TO:**

1. Provide the names and addresses of witnesses to the extent known to the Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
2. Provide an opportunity for the Complainant to inspect and make a copy of any of the following in the possession or custody or under control of the Respondent:
 - a. A statement of a person, other than the Respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the Respondent as to this person is the basis for the administrative proceeding;

1 b. A statement pertaining to the subject matter of the proceeding made by
2 any party to another party or persons;

3 c. Statements of witnesses then proposed to be called by the Respondent and
4 of other persons having personal knowledge of the acts, omissions or events which are the
5 basis for the proceeding, not included in (a) or (b) above;

6 d. All writings, including but not limited to reports of mental, physical and
7 blood examinations and things which the Respondent now proposes to offer in evidence;

8 e. Any other writing or thing which is relevant and which would be
9 admissible in evidence, including but not limited to, any patient or hospital records
10 pertaining to the persons named in the pleading;

11 f. Investigative reports made by or on behalf of the Respondent pertaining
12 to the subject matter of the proceeding, to the extent that these reports (1) contain the names
13 and addresses of witnesses or of persons having personal knowledge of the acts, omissions
14 or events which are the basis for the proceeding, or (2) reflect matters perceived by the
15 investigator in the course of his or her investigation, or (3) contain or include by attachment
16 any statement or writing described in (a) to (e), inclusive, or summary thereof.

17 For the purpose of this Request for Discovery, "statements" include written statements by
18 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
19 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
20 summaries of these oral statements.

21 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
22 should be deemed to authorize the inspection or copying of any writing or thing which is
23 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
24 product.

25 Your response to this Request for Discovery should be directed to the undersigned attorney
26 for the Complainant at the address below within 30 days after service of the Accusation.

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1 Failure without substantial justification to comply with this Request for Discovery may
2 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the
3 Government Code.

4 Dated: 3/14/2013
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Registered Nurse License No. 623205

Respondent.

Case No. 2013-764

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

Dated: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

- ☐ The above is my new address of record.
- ☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
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Respondent.

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NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

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Respondent's Name: _____

Respondent's Signature: _____

Respondent's Address: _____

City, State and Zip Code: _____

Respondent's Telephone: _____

Check appropriate box:

- ☐ The above is my new address of record.
☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.
